

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

VICTOR W. FOSTER,
Plaintiff,

v.

THE BANK OF NEW YORK MELLON,
BAYVIEW LOAN SERVICING, LLC,
Defendants.

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CIVIL ACTION NO. 4:17-CV-00319-ALM-
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ORDER

Pending before the Court is Defendants Bayview Loan Servicing, LLC and The Bank of New York Mellon f/k/a The Bank of New York, as trustee for the Certificate Holders CWALT, Inc.. Alternative Loan Trust 2004-22CB Mortgage Pass-Through Certificates, Series 2004-22CB (“Defendants”) Motion to Dismiss Plaintiff’s Claims [Dkt. 12], filed on July 5, 2017. Plaintiff has since filed an Amended Complaint [Dkt. 13] (on July 19, 2017) and Defendants a new Motion to Dismiss responsive to the Amended Complaint, namely the Motion to Dismiss Plaintiff’s Amended Complaint and Application for Injunctive Relief [Dkt. 14] (on August 2, 2017). In light of the Amended Complaint [Dkt. 13] and Defendants’ Motion to Dismiss Plaintiff’s Amended Complaint and Application for Injunctive Relief [Dkt. 14], the Court finds Defendant’s original Motion to Dismiss Plaintiff’s Claims [Dkt. 12] should be denied as moot. Accordingly,

It is therefore **ORDERED** that Defendants’ Motion to Dismiss Plaintiff’s Claims [Dkt. 12] is hereby **DENIED AS MOOT**.

IT IS SO ORDERED. SIGNED this 2nd day of August, 2017.